

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TERESA L. SIMMONS,

Plaintiff,

-v.-

Civil Action No.
7:05-cv-644 (GLS/GJD)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

PETER L. WALTON, ESQ.
Conboy, McKay Law Firm
407 Sherman Street
Watertown, New York 13601-9990

FOR THE DEFENDANT:

HON. GLENN T. SUDDABY
United States Attorney
Office of the United States Attorney
100 South Clinton Street
Syracuse, New York 13261-7198

WILLIAM H. PEASE, ESQ.
Assistant United States Attorney

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-

Recommendation by Chief Magistrate Judge Gustave J. DiBianco, duly filed February 27, 2007. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Chief Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Chief Magistrate Judge Gustave J. DiBianco filed February 27, 2007 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the Commissioner's decision is REVERSED and REMANDED under sentence four of 42 U.S.C. § 405(g) for a proper determination of plaintiff's credibility and RFC consistent with the recommendation.

IT IS SO ORDERED

Dated: March 14, 2007
Albany, New York


Gary L. Sharpe
U.S. District Judge